

110TH CONGRESS  
1ST SESSION

# S. 141

To amend the Internal Revenue Code of 1986 to permanently increase the maximum annual contribution allowed to be made to Coverdell education savings accounts, and to provide for a deduction for contributions to education savings accounts.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 4, 2007

Ms. CANTWELL introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to permanently increase the maximum annual contribution allowed to be made to Coverdell education savings accounts, and to provide for a deduction for contributions to education savings accounts.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “The College Savings  
5       Act of 2007”.

1 **SEC. 2. INCREASE IN MAXIMUM ANNUAL CONTRIBUTION**  
 2 **FOR COVERDELL EDUCATION SAVINGS AC-**  
 3 **COUNTS.**

4 (a) IN GENERAL.—Section 530(b)(1)(A)(iii) of the  
 5 Internal Revenue Code of 1986 (defining Coverdell edu-  
 6 cation savings account) is amended by striking “\$2,000”  
 7 and inserting “\$5,000”.

8 (b) CONFORMING AMENDMENT.—Section  
 9 4973(e)(1)(A) of the Internal Revenue Code of 1986 is  
 10 amended by striking “\$2,000” and inserting “\$5,000”.

11 (c) EFFECTIVE DATE.—The amendments made by  
 12 this section shall apply to taxable years beginning after  
 13 December 31, 2006.

14 (d) PERMANENT EXTENSION OF MODIFICATIONS.—  
 15 Section 901 of the Economic Growth and Tax Relief Rec-  
 16 onciliation Act of 2001 (relating to sunset provisions) shall  
 17 not apply to section 401 of such Act (relating to modifica-  
 18 tions to education individual retirement accounts).

19 **SEC. 3. EDUCATION SAVINGS ACCOUNTS.**

20 (a) DEDUCTION FOR CONTRIBUTIONS.—Part VII of  
 21 subchapter B of chapter 1 of the Internal Revenue Code  
 22 of 1986 (relating to additional itemized deductions for in-  
 23 dividuals) is amended by redesignating section 224 as sec-  
 24 tion 225 and inserting after section 223 the following new  
 25 section:

1 **“SEC. 224. EDUCATION SAVINGS.**

2       “(a) DEDUCTION ALLOWED.—In the case of an indi-  
3 vidual, there shall be allowed as a deduction an amount  
4 equal to the amount of contributions made by such indi-  
5 vidual to an education savings account during the taxable  
6 year.

7       “(b) DEFINITIONS.—

8           “(1) EDUCATION SAVINGS ACCOUNT.—The  
9 term ‘education savings account’ means a trust cre-  
10 ated or organized in the United States exclusively  
11 for the purpose of paying the qualified education ex-  
12 penses of an individual who is the designated bene-  
13 ficiary of the trust (and designated as an education  
14 savings account at the time created or organized),  
15 but only if the written governing instrument creating  
16 the trust meets the following requirements:

17           “(A) No contribution will be accepted—

18                   “(i) unless it is in cash,

19                   “(ii) after the date on which such ben-  
20 eficiary attains age 18, or

21                   “(iii) except in the case of rollover  
22 contributions described in subsection  
23 (e)(4), if such contribution would result in  
24 aggregate contributions for the taxable  
25 year exceeding \$5,000.

1           “(B) The trustee is a bank (as defined in  
2           section 408(n)) or another person who dem-  
3           onstrates to the satisfaction of the Secretary  
4           that the manner in which that person will ad-  
5           minister the trust will be consistent with the re-  
6           quirements of this section or who has so dem-  
7           onstrated with respect to any individual retire-  
8           ment plan or any Coverdell education savings  
9           account.

10           “(C) No part of the trust assets will be in-  
11           vested in life insurance contracts.

12           “(D) The assets of the trust shall not be  
13           commingled with other property except in a  
14           common trust fund or common investment  
15           fund.

16           “(E) Except as provided in subsection  
17           (e)(6), any balance to the credit of the des-  
18           ignated beneficiary on the date on which the  
19           beneficiary attains age 30 shall be distributed  
20           within 30 days after such date to the bene-  
21           ficiary or, if the beneficiary dies before attain-  
22           ing age 30, shall be distributed within 30 days  
23           after the date of death of such beneficiary.

24           “(F) The age limitations in subparagraphs  
25           (A)(ii) and (E), and paragraphs (4) and (5) of

1 subsection (e), shall not apply to any designated  
 2 beneficiary with special needs (as determined  
 3 under regulations prescribed by the Secretary).

4 “(2) QUALIFIED EDUCATION EXPENSES.—The  
 5 term ‘qualified education expenses’ has the meaning  
 6 given such term in section 530(b)(2).

7 “(3) CERTAIN RULES TO APPLY.—Rules similar  
 8 to the following rules shall apply for purposes of this  
 9 section:

10 “(A) Section 219(d)(2) (relating to no de-  
 11 duction for rollovers),

12 “(B) Section 530(b)(5) (relating to time  
 13 when contributions deemed made),

14 “(C) Section 530(f) (relating to community  
 15 property laws),

16 “(D) Section 530(g) (relating to custodial  
 17 accounts), and

18 “(E) Section 530(h) (relating to reports).

19 “(c) REDUCTION IN PERMITTED CONTRIBUTION  
 20 BASED ON ADJUSTED GROSS INCOME.—

21 “(1) IN GENERAL.—The maximum amount  
 22 which a contributor could otherwise make to an ac-  
 23 count under this section shall be reduced by an  
 24 amount which bears the same ratio to such max-  
 25 imum amount as—

1 “(A) the excess of—

2 “(i) the contributor’s modified ad-  
3 justed gross income for such taxable year,  
4 over

5 “(ii) \$95,000 (\$190,000 in the case of  
6 a joint return), bears to

7 “(B) \$15,000 (\$30,000 in the case of a  
8 joint return).

9 “(2) MODIFIED ADJUSTED GROSS INCOME.—

10 For purposes of paragraph (1), the term ‘modified  
11 adjusted gross income’ means the adjusted gross in-  
12 come of the taxpayer for the taxable year increased  
13 by any amount excluded from gross income under  
14 section 911, 931, or 933.

15 “(d) TAX TREATMENT OF ACCOUNTS.—

16 “(1) IN GENERAL.—An education savings ac-  
17 count is exempt from taxation under this subtitle  
18 unless such account has ceased to be an education  
19 savings account. Notwithstanding the preceding sen-  
20 tence, any such account is subject to the taxes im-  
21 posed by section 511 (relating to imposition of tax  
22 on unrelated business income of charitable, etc. or-  
23 ganizations).

24 “(2) ACCOUNT TERMINATIONS.—Rules similar  
25 to the rules of paragraphs (2) and (4) of section

1       408(e) shall apply to education savings accounts,  
 2       and any amount treated as distributed under such  
 3       rules shall be treated as not used to pay qualified  
 4       education expenses.

5       “(e) TREATMENT OF DISTRIBUTIONS.—

6               “(1) IN GENERAL.—Any distribution shall be  
 7       includible in the gross income of the distributee in  
 8       the manner as provided in section 72.

9               “(2) SPECIAL RULES FOR APPLYING ESTATE  
 10       AND GIFT TAXES WITH RESPECT TO ACCOUNT.—  
 11       Rules similar to the rules of paragraphs (2), (4),  
 12       and (5) of section 529(c) shall apply for purposes of  
 13       this section.

14              “(3) ADDITIONAL TAX FOR DISTRIBUTIONS NOT  
 15       USED FOR EDUCATIONAL EXPENSES.—

16              “(A) IN GENERAL.—The tax imposed by  
 17       this chapter for any taxable year on any tax-  
 18       payer who receives a payment or distribution  
 19       from an education savings account which is in  
 20       excess of the qualified education expenses of the  
 21       designated beneficiary during the taxable year  
 22       shall be increased by 10 percent of the amount  
 23       of such excess.

1           “(B) EXCEPTIONS.—Subparagraph (A)  
2 shall not apply if the payment or distribution  
3 is—

4           “(i) made to a beneficiary (or to the  
5 estate of the designated beneficiary) on or  
6 after the death of the designated bene-  
7 ficiary,

8           “(ii) attributable to the designated  
9 beneficiary’s being disabled (within the  
10 meaning of section 72(m)(7)),

11           “(iii) made on account of a scholar-  
12 ship, allowance, or payment described in  
13 section 25A(g)(2) received by the account  
14 holder to the extent the amount of the pay-  
15 ment or distribution does not exceed the  
16 amount of the scholarship, allowance, or  
17 payment, or

18           “(iv) made on account of the attend-  
19 ance of the designated beneficiary at the  
20 United States Military Academy, the  
21 United States Naval Academy, the United  
22 States Air Force Academy, the United  
23 States Coast Guard Academy, or the  
24 United States Merchant Marine Academy,  
25 to the extent that the amount of the pay-

ment or distribution does not exceed the costs of advanced education (as defined by section 2005(e)(3) of title 10, United States Code, as in effect on the date of the enactment of this section) attributable to such attendance.

“(C) CONTRIBUTIONS RETURNED BEFORE CERTAIN DATE.—Subparagraph (A) shall not apply to the distribution of any contribution made during a taxable year on behalf of the designated beneficiary if—

“(i) such distribution is made before the first day of the sixth month of the taxable year following the taxable year, and

“(ii) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in clause (ii) shall be included in gross income for the taxable year in which such excess contribution was made.

“(4) ROLLOVER CONTRIBUTIONS.—Paragraph (1) shall not apply to any amount paid or distributed from an education savings account to the extent that the amount received is paid, not later than the 60th day after the date of such payment or dis-

1       tribution, into another education savings account for  
2       the benefit of the same beneficiary or a member of  
3       the family (within the meaning of section 529(e)(2))  
4       of such beneficiary who has not attained age 30 as  
5       of such date. The preceding sentence shall not apply  
6       to any payment or distribution if it applied to any  
7       prior payment or distribution during the 12-month  
8       period ending on the date of the payment or dis-  
9       tribution.

10       “(5) CHANGE IN BENEFICIARY.—Any change in  
11       the beneficiary of an education savings account shall  
12       not be treated as a distribution for purposes of para-  
13       graph (1) if the new beneficiary is a member of the  
14       family (as so defined) of the old beneficiary and has  
15       not attained age 30 as of the date of such change.

16       “(6) SPECIAL RULES FOR DEATH AND DI-  
17       VORCE.—Rules similar to the rules of paragraphs  
18       (7) and (8) of section 220(f) shall apply. In applying  
19       the preceding sentence, members of the family (as so  
20       defined) of the designated beneficiary shall be treat-  
21       ed in the same manner as the spouse under such  
22       paragraph (8).

23       “(7) DEEMED DISTRIBUTION ON REQUIRED  
24       DISTRIBUTION DATE.—In any case in which a dis-  
25       tribution is required under subsection (b)(1)(E), any

1 balance to the credit of a designated beneficiary as  
 2 of the close of the 30-day period referred to in such  
 3 subsection for making such distribution shall be  
 4 deemed distributed at the close of such period.”.

5 (b) TAX ON EXCESS CONTRIBUTIONS.—

6 (1) IN GENERAL.—Subsection (a) of section  
 7 4973 of the Internal Revenue Code of 1986 (relating  
 8 to tax on excess contributions to certain tax-favored  
 9 accounts and annuities) is amended by striking “or”  
 10 at the end of paragraph (4), by inserting “or” at the  
 11 end of paragraph (5), and by inserting after para-  
 12 graph (5) the following new paragraph:

13 “(6) an education savings account (as defined  
 14 in section 224),”.

15 (2) EXCESS CONTRIBUTION.—Section 4973 of  
 16 such Code is amended by adding at the end the fol-  
 17 lowing new subsection:

18 “(h) EXCESS CONTRIBUTIONS TO EDUCATION SAV-  
 19 INGS ACCOUNTS.—For purposes of this section—

20 “(1) IN GENERAL.—In the case of education  
 21 savings accounts maintained for the benefit of any  
 22 one beneficiary, the term ‘excess contributions’  
 23 means the sum of—

24 “(A) the amount by which the amount con-  
 25 tributed for the taxable year to such accounts

1 exceeds \$5,000 (or, if less, the sum of the max-  
 2 imum amounts permitted to be contributed  
 3 under section 224(c) by the contributors to  
 4 such accounts for such year); and

5 “(B) the amount determined under this  
 6 subsection for the preceding taxable year, re-  
 7 duced by the sum of—

8 “(i) the distributions out of the ac-  
 9 counts for the taxable year (other than dis-  
 10 tributions described in section 224(e)(4));  
 11 and

12 “(ii) the excess (if any) of the max-  
 13 imum amount which may be contributed to  
 14 the accounts for the taxable year over the  
 15 amount contributed to the accounts for the  
 16 taxable year.

17 “(2) SPECIAL RULES.—For purposes of para-  
 18 graph (1), the following contributions shall not be  
 19 taken into account:

20 “(A) Any contribution which is distributed  
 21 out of the education savings account in a dis-  
 22 tribution to which section 224(e)(3)(C) applies.

23 “(B) Any rollover contribution.”.

24 (c) FAILURE TO PROVIDE REPORTS ON EDUCATION  
 25 SAVINGS ACCOUNTS.—Paragraph (2) of section 6693(a)

1 of the Internal Revenue Code of 1986 (relating to failure  
 2 to provide reports on individual retirement accounts or an-  
 3 nnuities) is amended by striking “and” at the end of sub-  
 4 paragraph (D), by striking the period at the end of sub-  
 5 paragraph (E) and inserting “, and”, and by inserting  
 6 after subparagraph (E) the following new subparagraph:

7                   “(F) section 224(b)(3)(E) (relating to edu-  
 8                   cation savings accounts).”.

9           (d) CLERICAL AMENDMENT.—The table of section  
 10 for part VII of subchapter B of chapter 1 of the Internal  
 11 Revenue Code of 1986 is amended by striking the item  
 12 relating to section 224 and inserting the following new  
 13 items:

“Sec. 224. Education savings.  
 “Sec. 225. Cross reference.”.

14           (e) EFFECTIVE DATE.—The amendments made by  
 15 this section shall apply to contributions made in taxable  
 16 years beginning after December 31, 2006.

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